



## **SUBJECT:** 3,2,1: Failure in Pedestrian Protection

**RECIPIENTS:** All Services – Including Schools

**ISSUE DATE:** Nov 2016      **REF:** HSB71

### **Three duty holders, Two separate incidents, same site, One Death**

A City Council and two of its contractors must pay more than £1.6m following two separate incidents involving pensioners on a busy road that was being resurfaced. The companies had been contracted by the council to carry out resurfacing works on its Highway.

**The First Incident:** On 3 July 2012, a 74-year-old man sustained head and back injuries when he was struck by a car while crossing at temporary lights. The Crown Court was told that one side of the dual carriageway had been put into a contraflow to allow vehicles to travel in both directions. However, the temporary pedestrian lights were not working and no alternative was provided.

**The Second Incident:** On the 19 August, a second pensioner, was knocked down and killed by a car as he tried to cross a single lane of traffic on the same road using a temporary pedestrian crossing. Following complaints from motorists, traffic light changes had been made in order to reduce congestion. This removed the natural break in the traffic flow that pedestrians needed to cross the carriageway safely.

**The Outcome:** The investigation found the City Council failed to implement suitable arrangements for managing the roadworks, did not appoint a coordinator for the work and instead delegated these responsibilities to contractor. The contractor failed to ensure the designs for the traffic management were checked and approved, or that the construction plan for pedestrian routes and provision of barriers was being followed. At the time of the incidents, it provided no safe means for pedestrians crossing the works area or the carriageway. The sub-contractor, which was responsible for the provision and installation of the traffic and pedestrian management, did not provide alternative help for pedestrians at the time of the first incident though it was clear the temporary lights were broken. When the pensioner was killed, the faulty lights had been removed but there were no alternative control measures. A large A-frame sign was also placed on the crossing obscuring the view of pedestrians and motorists.

The Sub Contractor was fined £1.3m and ordered to pay £130,000 costs after it pleaded guilty. The Principal Contractor admitted breaching principal contractor's duties. It was fined £25,000 plus £80,000 costs. The City Council was fined £15,000 plus £100,000 costs after pleading guilty for failing its responsibility as the client to ensure that the arrangements made for the managing the project are suitable to ensure work is carried out without any risks to safety.

After the hearing, a HSE inspector said: "The combined failure of all three duty holders to comply with their duties on more than one occasion led to one man losing his life and another suffering serious injury. It could quite easily have been two fatal incidents. "By engaging with the entire project team at the very start of the project, a good health and safety culture is embodied throughout the life of the project. Ongoing communication and cooperation between the principal contractors and subcontractors ensures that the project is being adequately planned, managed and monitored."